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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FEDERAL DEPOSIT INSURANCE
CORPORATION,

Plaintiff,

v.

26 FLAMINGO, LLC., et al.,

Defendants.

2:11-CV-1936 JCM (RJJ)

ORDER

Presently before the court is defendant Outback Steakhouse of Florida, LLC's motion to dismiss. (Doc. #18). Plaintiff, the Federal Deposit Insurance Corporation, failed to file an opposition.

Defendant moves to dismiss this case pursuant to Federal Rule of Civil Procedure 12(b)(6). (Doc. #18). Specifically, defendant asserts that "[b]y its own language, [p]laintiff's [c]omplaint clearly establishes that [defendant] has relinquished all property rights relating to the land and any covenants which may or may not run with it. As such, no declaratory judgment could properly be issued against [defendant], and this case, as pled against [defendant] must be dismissed." (Doc. #18).

Pursuant to Nevada Local Rule 7-2(d), "the failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion." However, the court will not automatically grant every unopposed motion. In *Ghazali v. Moran*, 46

1 F.3d 52, 53 (9th Cir. 1995), the Ninth Circuit held that the court had to weigh the following factors
2 before dismissing the action: (1) the public's interest in expeditious resolution of litigation; (2) the
3 court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
4 favoring disposition of cases of their merits; and (5) the availability of less drastic sanctions.

5 Plaintiff failed to oppose the motion to dismiss, and the court further finds that the *Ghazali*
6 factors weigh in favor of dismissing the action as to this defendant. *Ghazali*, 46 F.3d at 53; *see also*
7 LR 7-2(d).

8 Accordingly,

9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant Outback
10 Steakhouse of Florida, LLC's motion to dismiss (doc. #18) be, and the same hereby is, GRANTED.

11 DATED March 22, 2012.

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14 UNITED STATES DISTRICT JUDGE